

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
ITT EDUCATIONAL SERVICES, INC., *et al.*¹) Case No. 16-07207-JMC-7A
)
Debtors.) Jointly Administered

**PROPOSED AGENDA OF MATTERS SCHEDULED
FOR OMNIBUS HEARING ON DECEMBER 19, 2018 AT 1:30 P.M.**

Deborah J. Caruso, the chapter 7 trustee in this case (the “Trustee”), by counsel, pursuant to the *Notice, Case Management and Administrative Procedures* (the “Case Management Procedures”) approved by the Court on October 4, 2016 [Doc 220], submits this proposed agenda for the matters scheduled for the omnibus hearing on December 19, 2018 at 1:30 p.m. (prevailing Eastern time) (the “Hearing”). The Trustee anticipates the matters before the Court for the Hearing will take approximately one (1) hour.

I. DIAL-IN INFORMATION

The dial-in telephone number for interested parties to participate in the Hearing by conference call is 1-800-920-7487; passcode 87599521#. Interested parties planning on participating in the Hearing by conference call shall notify the Court before the Hearing by contacting Heather Butler (heather_butler@insb.uscourts.gov or 317-229-3833) or Suzette Bewley (suzette_bewley@insb.uscourts.gov or 317-229-3862).

II. MATTERS SCHEDULED TO BE HEARD AT HEARING

Lead Bankruptcy Case (Case No. 16-07207)

1. *Notice of Invoice for McKool Smith, P.C.’s Fees and Expenses for the Period October 1, 2018 through October 31, 2018 [Doc 3057]*, filed by McKool Smith, P.C.

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

- **Status:** There were no objections filed by the November 27, 2018 objection deadline. As such, pursuant to the Court's April 20, 2017 Order [Doc 1569], the Trustee has paid 80% of the requested fees and 100% of the requested expenses. Not going forward at the Hearing.
2. *Notice of Invoice for Faegre Baker Daniels LLP's Fees and Expenses for the Period of October 1, 2018 through October 31, 2018 (To be Paid by Debtors' Estate)* [Doc 3059], filed by Faegre Baker Daniels LLP.
- **Status:** There were no objections filed by the December 12, 2018 objection deadline. As such, pursuant to the Court's April 20, 2017 Order [Doc 1569], the Trustee has paid 80% of the requested fees and 100% of the requested expenses. Not going forward at the Hearing.
3. *Notice of Invoices for Faegre Baker Daniels LLP's Fees and Expenses for the Period October 1, 2018 through October 31, 2018 (To be Paid by Debtors' Pension Plan)* [Doc 3060], filed by Faegre Baker Daniels LLP.
- **Status:** There were no objections filed by the December 12, 2018 objection deadline. As such, pursuant to the Court's April 20, 2017 Order [Doc 1569], Faegre Baker Daniels has or will receive in the near future payment of its requested fees and expenses from the respective sources indicated in the notices. Not going forward at the Hearing.
4. *Notice of Invoice for BGBC Partners, LLP's Fees and Expenses for the Period of October 1, 2018 through October 31, 2018* [Doc 3063], filed by BGBC Partners LLP.
- **Status:** There were no objections filed by the December 3, 2018 objection deadline. As such, pursuant to the Court's April 20, 2017 Order [Doc 1569], the Trustee has paid 80% of the requested fees and 100% of the requested expenses. Not going forward at the Hearing.
5. *Trustee's 8th Omnibus Motion to Compromise and Settle Avoidance Claims in the Gross Amount of \$50,000.01 or More* [Doc 3065], filed by the Trustee.
- **Status:** No objections filed by the December 12, 2018 objection deadline. Going forward at the Hearing.
6. *Trustee's Motion to Compromise and Settle Certain Claims Related to Iron Mountain Incorporated* [Doc 3061], filed by the Trustee.

- **Status:** No objections filed by the December 12, 2018 objection deadline. Going forward at the Hearing.
7. *Trustee's Motion to Compromise and Settle Avoidance Claim Against Facebook, Inc. [Doc 3072]*, filed by the Trustee.
- **Status:** No objections filed by the December 12, 2018 objection deadline. Going forward at the Hearing.
8. *Second Interim Fee Application of Kane & Co. for Compensation for Services Rendered as Special Counsel for the Trustee for the Period August 1, 2017 through November 27, 2018 [Doc 3069]*, filed by Kane & Co.
- **Status:** No objections filed by the December 12, 2018 objection deadline. Going forward at the Hearing.
9. *Trustee's Motion for Authority to Pay Certain Expenses of Transamerica as an Administrative Expense [Doc 3074]*, filed by the Trustee.
- **Status:** No objections filed by the December 12, 2018 objection deadline. Going forward at the Hearing.
10. Continued hearing on *Motion to Confirm Absence of Stay and for Reconsideration [Doc 356]*, filed by the Commonwealth of Massachusetts and the State of New Mexico.
- *Trustee's Objection to Motion to Confirm Absence of Stay and for Reconsideration [Doc 504]*, filed by the Trustee.
 - *Response to Trustee's Objection to Motion to Confirm Absence of Stay and for Reconsideration [Doc 543]*, filed by the Commonwealth of Massachusetts and the State of New Mexico.
 - **Status:** The Trustee will provide an update to the Court at the Hearing regarding the proposed continuation of the stay on a consensual basis to March 31, 2019. The Trustee will request on the record that this matter be continued to the omnibus hearing on March 20, 2019 at 1:30 p.m. If granted, not going forward at the Hearing.
11. Continued status conference on *American Express Travel Related Services Company, Inc.'s Motion for Relief from the Automatic Stay to Effect Setoff Pursuant to 11 U.S.C. § 553(a) [Doc 1505]*, filed by American Express Travel Related Services Company, Inc.
- *Trustee's Objection to Motion for Relief from the Automatic Stay to Effect*

Setoff Pursuant to 11 U.S.C. § 553(a) Filed by American Express Travel Related Services Company, Inc. [Doc 2397], filed by the Trustee.

- **Status:** Going forward at the Hearing.

Caruso v. Consumer Financial Protection Bureau, et al. (AP No. 16-50318)

1. Continued final hearing on the *Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 3]*, filed by the Trustee.
 - *Objection to Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 19]*, filed by the Attorney General for the Commonwealth of Massachusetts and the State of New Mexico.
 - *Consumer Financial Protection Bureau's Objection to Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 21]*, filed by the Consumer Financial Protection Bureau.
 - *Opposition of Securities and Exchange Commission to Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 22]*, filed by the United States Securities and Exchange Commission.
 - *Trustee's Reply in Support of Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 23]*, filed by the Trustee.
 - *Consumer Financial Protection Bureau's Supplemental Objection to Trustee's Motion to Stay [Doc 76]*, filed by the Consumer Financial Protection Bureau.
 - *Supplemental Objection to Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 84]*, filed by the Attorney General for the Commonwealth of Massachusetts.
 - *Trustee's Supplement to Reply in Support of Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against Debtors [Doc 87]* filed by the Trustee.
 - *Agreed Entry Resolving Trustee's Motion to Stay, or in the Alternative, for Injunctive Relief Enjoining, Prosecution of Pending Litigation Against*

Debtors with Respect to Consumer Financial Protection Bureau [Doc 98], filed by the Trustee and the Consumer Financial Protection Bureau.

- **Status:** The Trustee will provide an update to the Court at the Hearing regarding the proposed continuation of the stay on a consensual basis to March 31, 2019. The Trustee will request on the record that this matter be continued to the omnibus hearing on March 20, 2019 at 1:30 p.m. If granted, not going forward at the Hearing.

Caruso v. American Express Travel Related Services Company, Inc. (AP No. 18-50239)

1. Continued status conference.

- **Status:** Going forward at the Hearing.

Caruso v. PEAKS Trust 2009-1, et al. (AP No. 18-50272)

1. *Trustee's Motion for Stay of Adversary Proceeding, on Consent [Doc 63]*, filed by the Trustee.
 - **Status:** No objections filed. Motion granted per Court's November 30, 2018 Order [Doc 83]. Hearing vacated.

III. NOTICE

Pursuant to the Case Management Procedures, the Trustee will serve this proposed hearing agenda on the Core Group (as defined in the Case Management Procedures) and each entity who has filed and served a court filing set to be heard at the Hearing.

Respectfully submitted,

RUBIN & LEVIN, P.C.

By: /s/ Meredith R. Theisen

Meredith R. Theisen

Deborah J. Caruso (Atty. No. 4273-49)

John C. Hoard (Atty. No. 8024-49)

James E. Rossow Jr. (Atty. No. 21063-29)

Meredith R. Theisen (Atty. No. 28804-49)

RUBIN & LEVIN, P.C.

135 N. Pennsylvania Street, Suite 1400

Indianapolis, Indiana 46204

Tel: (317) 634-0300

Fax: (317) 263-9411

Email: dcaruso@rubin-levin.net

johnh@rubin-levin.net

jim@rubin-levin.net

mtheisen@rubin-levin.net

Attorneys for Deborah J. Caruso, Trustee

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2018, a copy of the foregoing *Proposed Agenda of Matters Scheduled for Omnibus Hearing on December 19, 2018 at 1:30 p.m.* was filed electronically. Pursuant to Section IV.C.3(a) of the Case Management Procedures, notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

John Joseph Allman jallman@hbkfirm.com, dadams@hbkfirm.com

Richard Allyn rallyn@robinskaplan.com

Robert N Amkraut ramkraut@foxrothschild.com

Scott S. Anders scott.anders@jordanramis.com, litparalegal@jordanramis.com

Manuel German Arreaza manuel.arreaza@cfpb.gov

Todd Allan Atkinson tatkinson@ulmer.com

Darren Azman dazman@mwe.com

Kay Dee Baird kbaird@kdlegal.com, rhobdy@kdlegal.com; crbpgpleadings@kdlegal.com

Michael I. Baird baird.michael@pbgc.gov, efile@pbgc.gov

Christopher E. Baker cbaker@hbkfirm.com, thignight@hbkfirm.com

James David Ballinger jim@kentuckytrial.com, jennifer@kentuckytrial.com

Joseph E. Bant jebant@lewisricekc.com

William J. Barrett william.barrett@bfkn.com, mark.mackowiak@bfkn.com

Ashley Flynn Bartram ashley.bartram@oag.texas.gov

Alex M Beeman alex@beemanlawoffice.com, alexbeemanECF@protonmail.com

Thomas M Beeman tom@beemanlawoffice.com

Richard James Bernard rbernard@foley.com

Thomas Berndt tberndt@robinskaplan.com, jgerboth@robinskaplan.com

John J Berry john.berry@dinsmore.com, Christina.Lee@DINSMORE.COM
Lauren Beslow lauren.beslow@quarles.com
Brandon Craig Bickle bbickle@gablelaw.com
David J. Bodle dbodle@hhclaw.com, layres@hhlaw-in.com
Robert A. Breidenbach rab@goldsteinpressman.com
Wendy D Brewer wbrewer@fmdlegal.com, cbellner@fmdlegal.com
Kayla D. Britton kayla.britton@faegrebd.com, noticeFRindy@faegrebd.com
Robert Bernard Bruner bob.bruner@nortonrosefulbright.com
Jason R Burke jburke@bbrlawpc.com, kellis@bbrlawpc.com
Kevin J. Burke kburke@cahill.com
Erin Busch ebusch@nebraska.edu
John Cannizzaro john.cannizzaro@icemiller.com, Deborah.Martin@icemiller.com
Kevin M. Capuzzi kcapuzzi@beneschlaw.com,
lmolinaro@beneschlaw.com;docket@beneschlaw.com
James E. Carlberg jcarlberg@boselaw.com,
mwakefield@boselaw.com;rmurphy@boselaw.com
Steven Dean Carpenter scarpenter1@dor.in.gov
Deborah Caruso dcaruso@rubin-levin.net, dwright@rubin-levin.net;jkrichbaum@rubin-levin.net;atty_dcaruso@bluestylus.com
Deborah J. Caruso trustee caruso@rubin-levin.net, DJC@trustesolutions.net
Joshua W. Casselman jcasselman@rubin-levin.net, angie@rubin-levin.net;atty_jcasselman@bluestylus.com
Ben T. Caughey ben.caughey@merchocaughey.com
Sonia A. Chae chaes@sec.gov
John Andrew Chanin jchanin@lindquist.com, srummery@lindquist.com
Courtney Elaine Chilcote courtney@ckhattorneys.com,
ckh@ckhattorneys.com;tracy@ckhattorneys.com
Dale C Christensen christensen@sewkis.com
Eboney Delane Cobb ecobb@pbfc.com
Michael Edward Collins mcollins@manierherod.com
Michael Anthony Collyard mcollyard@robinskaplan.com, rhoule@robinskaplan.com
Eileen Connor econnor@law.harvard.edu
Lawrence D. Coppel lcoppel@gfrlaw.com
Heather M. Crockett Heather.Crockett@atg.in.gov, darlene.greenley@atg.in.gov
J Russell Cunningham rcunningham@dnlc.net, reaster@dnlc.net
Erica Dausch edausch@babstcalland.com
David H DeCelles david.h.decelles@usdoj.gov
Melissa J. DeGroff mjd@kgrlaw.com, cjs@kgrlaw.com
Dustin R. DeNeal dustin.deneal@faegrebd.com, noticeFRindy@faegrebd.com
Laura A DuVall Laura.Duvall@usdoj.gov, Catherine.henderson@usdoj.gov
Stephen Emedi semedi@law.harvard.edu
Abby Engen aengen@nmag.gov, eheltman@nmag.gov
Annette England annette.england@btlaw.com
Charles Anthony Ercole cercole@klehr.com, acollazo@klehr.com
Carolyn Meredith Fast carolyn.fast@ag.ny.gov
Elaine Victoria Fenna elaine.fenna@morganlewis.com

Andrew W Ferich awf@chimicles.com
Scott Patrick Fisher sfisher@drewrysimmons.com, lgarrison@DSVlaw.com
John David Folds dfolds@bakerdonelson.com, sparson@bakerdonelson.com
Jennifer N Fountain jfountain@iislaw.com, sfilippini@iislaw.com
Sarah Lynn Fowler sarah.fowler@mbcblaw.com, deidre.gastenveld@mbcblaw.com
Robert W. Fuller rf Fuller@rbh.com
Carlos Galliani carlos@thelidjifirm.com
Jonathan William Garlough jgarlough@foley.com, mstockl@foley.com;mdlee@foley.com
Lea Pauley Goff lea.goff@skofirm.com,
emily.keith@skofirm.com;mary.lisanby@skofirm.com
Barry S. Gold bgold@mmlawus.com
John C Goodchild john.goodchild@morganlewis.com
Douglas Gooding dgooding@choate.com
John Andrew Goodridge jgoodridge@jaglo.com, angray@jaglo.com;dwhiggs@jaglo.com
Michael Wayne Grant michael.w.grant@doj.state.or.us
Richard Grayson Grant rgrant@rgglaw.com, grantecf@gmail.com
Alan Mark Grochal agrochal@tydingslaw.com
Elizabeth N. Hahn ehahn@rubin-levin.net, mralph@rubin-levin.net
Gregory Forrest Hahn ghahn@boselaw.com, jmcneeley@boselaw.com
Julian Ari Hammond jhammond@hammondlawpc.com, ppecherskaya@hammondlawpc.com
Wallace M Handler whandler@swappc.com, kkloock@swappc.com
William J. Hanlon whanlon@seyfarth.com
Adam Craig Harris adam.harris@srz.com
Brian Hauck bhauck@jenner.com
Jeffrey M. Hawkinson jhawkinson@pcslegal.com, danderson@pcslegal.com
Michael J. Hebenstreit mjh@whzlaw.com,
arlene@whzlaw.com;ene@whzlaw.com;kdt@whzlaw.com
Amanda Marie Hendren amanda@indianalawgroup.com
Claude Michael Higgins Michael.Higgins@ag.ny.gov
Michael W. Hile mhile@jacobsonhile.com, assistant@jacobsonhile.com
Sean M Hirschten shirschten@psrb.com
Robert M. Hirsh robert.hirsh@arentfox.com
John C. Hoard johnh@rubin-levin.net, jkrichbaum@rubin-levin.net;atty_jch@trustesolutions.com;sturpin@rubin-levin.net
Curt Derek Hochbein chochbein@rubin-levin.net, mralph@rubin-levin.net;lking@rubin-levin.net;atty_chochbein@bluestylus.com
Jeffrey A Hokanson jeff.hokanson@icemiller.com, Kathy.peed@icemiller.com
Steven Howard Holinstat sholinstat@proskauer.com
Diana Hooley diana.hooley@state.ma.us
Thomas Ross Hooper hooper@sewkis.com
Andrew E. Houha bkecfnotices@johnsonblumberg.com
Andrew W. Hull awhull@hooverhullturner.com, fgipson@hooverhullturner.com
James C Jacobsen jjacobsen@nmag.gov, eheltman@nmag.gov
Christine K. Jacobson cjacobson@jacobsonhile.com, assistant@jacobsonhile.com
Jay Jaffe jay.jaffe@faegrebd.com, noticeFRindy@faegrebd.com
David Januszewski djanuszewski@cahill.com

Benjamin F Johns bfj@chimicles.com, klw@chimicles.com
Russell Ray Johnson russj4478@aol.com
Kenneth C. Jones kcjones@lewisricekc.com
Anthony R. Jost tjost@rbelaw.com, baldous@rbelaw.com;tbutton@rbelaw.com
David J. Jurkiewicz DJurkiewicz@boselaw.com,
mwakefield@boselaw.com;rmurphy@boselaw.com;clindsey@boselaw.com;dlingenfelter@boselaw.com
Timothy Q. Karcher tkarcher@proskauer.com
Alan Katz akatz@lockelord.com
Richard B. Kaufman richardkfmn@gmail.com
Carly Kessler ckessler@robinskaplan.com
John M. Ketcham jketcham@psrb.com, scox@psrb.com
Taejin Kim tae.kim@srz.com
Edward M King tking@fbtlaw.com, lsugg@fbtlaw.com;tking@ecf.inforuptcy.com
Roy F. Kiplinger bankruptcy@kiplingerlaw.com, bankruptcy@kiplingerlaw.com
Jackson Taylor Kirklin taylor.kirklin@usdoj.gov, denise.woody@usdoj.gov
James A. Knauer jak@kgrlaw.com, tjf@kgrlaw.com
Kevin Dale Koons kkoons@kgrlaw.com, ncarson@kgrlaw.com
Harris J. Koroglu hkoroglu@shutts.com, fsantelices@shutts.com
Lawrence Joel Kotler ljkotler@duanemorris.com
Robert R Kracht rrk@mccarthylebit.com
Andrew L. Kraemer akraemer@johnsonblumberg.com, akraemerlawoffice@att.net
David R. Krebs dkrebs@hbkfirm.com, dadams@hbkfirm.com
Jerrold Scott Kulback jkulback@archerlaw.com
Jay R LaBarge jlabarge@stroblpc.com
Darryl S Laddin bkrfilings@agg.com
Michael J. Langlois mlanglois@shouselanglois.com, rshouse@shouselanglois.com
Vilda Samuel Laurin slaurin@boselaw.com
Jordan A Lavinsky jlavinsky@hansonbridgett.com
Todd Evan Leatherman todd.leatherman@ky.gov
David S Lefere dlefer@mikameyers.com, jfortney@mikameyers.com
Anthony Darrell Lehman alehman@hwpwlegal.com
Martha R. Lehman mlehman@salawus.com,
marthalehman87@gmail.com;pdidandeh@salawus.com;lengle@salawus.com
Gary H Leibowitz gleibowitz@coleschotz.com,
blansinger@coleschotz.com;pratkowiak@coleschotz.com
Donald D Levenhagen dlevenhagen@landmanbeatty.com
Elizabeth Marie Little elizabeth.little@faegrebd.com
Edward J LoBello elobello@msek.com
Melinda Hoover MacAnally Melinda.MacAnally@atg.in.gov,
Carrie.Spann@atg.in.gov;Kenyatta.Peerman@atg.in.gov
Christopher John Madaio Cmadaio@oag.state.md.us
John A. Majors jam@morganandpottinger.com, majormajors44@yahoo.com
Steven A. Malcoun dsmith@mayallaw.com
Jonathan Marshall jmarshall@choate.com
Thomas Marvin Martin tmmartin@lewisricekc.com

Jeff J. Marwil jmarwil@proskauer.com,
npetrov@proskauer.com;pyoung@proskauer.com;sholinstat@proskauer.com
Richard J Mason rmason@mcguirewoods.com
C. Ed Massey mbracken@nkylawyers.com, cedmassey@nkylawyers.com
Ann Wilkinson Matthews amatthews@ncdoj.gov
Rachel Jaffe Mauceri rachel.mauceri@morganlewis.com
Michael K. McCrory mmccrory@btlaw.com, bankruptcyindy@btlaw.com
Maureen Elin McOwen molly.mcowen@cfpb.gov
Harley K Means hkm@kgrlaw.com,
kwhigham@kgrlaw.com;cjs@kgrlaw.com;tjf@kgrlaw.com
Toby Merrill tomerrill@law.harvard.edu, ppsl@law.harvard.edu
Robert W. Miller rmiller@manierherod.com
Sherry Millman smillman@stroock.com
Jason Milstone jason.milstone@cmsenergy.com
Thomas E Mixdorf thomas.mixdorf@icemiller.com, susan.cogdill@icemiller.com
Evgeny Grigori Mogilevsky eugene@egmlegal.com, emily@egmlegal.com
James P Moloy jmoloy@boselaw.com,
dlingenfelter@boselaw.com;mwakefield@boselaw.com
Ronald J. Moore Ronald.Moore@usdoj.gov
Hal F Morris hal.morris@oag.texas.gov
Michael David Morris michael.morris@ago.mo.gov
Kevin Alonzo Morrissey kmorrissey@lewis-kappes.com, soliver@lewis-
kappes.com;leckert@lewis-kappes.com;kwilliams@lewis-kappes.com
Whitney L Mosby wmosby@bgdlegal.com, fwolfe@bgdlegal.com
C Daniel Motsinger cmotsinger@kdlegal.com,
cmotsinger@kdlegal.com;crbpgpleadings@kdlegal.com;shammersley@kdlegal.com
Lee Duck Moylan lmoylan@klehr.com, acollazo@klehr.com
Joseph L. Mulvey joseph@mulveyllc.com, linda@mulveyllc.com
Abraham Murphy murphy@abrahammurphy.com
Justin Scott Murray jmurray@atg.state.il.us
Alissa M. Nann anann@foley.com, DHeffer@foley.com
Henry Seiji Newman hsnewman@dglaw.com
Kevin M. Newman knewman@menterlaw.com, kmnbk@menterlaw.com
Cassandra A. Nielsen cnielsen@rubin-levin.net,
atty_cnielsen@bluestylus.com,mralph@rubin-levin.net;lking@rubin-levin.net
Ryan Charles Nixon rcnixon@lamarcalawgroup.com
Isaac Nutovic inutovic@nutovic.com
Michael O'Donnell mike.odonnell@nortonrosefulbright.com
Gregory Ostendorf gostendorf@scopelitis.com, agregory@scopelitis.com
Weston Erick Overturf wes.overturf@mbcblaw.com,
deidre.gastenveld@mbcblaw.com;ellen.sauter@mbcblaw.com
Pamela A. Paige ppaige@plunkettcooney.com, amiller@plunkettcooney.com
Kenneth Pasquale kpasquale@stroock.com
Eric Pendergraft ependergraft@slp.law, dwoodall@slp.law;bss@slp.law
Danielle Ann Pham danielle.pham@usdoj.gov
Jack A Raisner jar@outtengolden.com,

kdeleon@outtengolden.com;jquinonez@outtengolden.com
Jonathan Hjalmer Reischl jonathan.reischl@cfpb.gov
Michael Rella mrella@mmlawus.com
Caroline Ellona Richardson caroline@paganelligroup.com, anna@paganelligroup.com
James Leigh Richmond James.Richmond@fldoe.org
Mai Lan Gabrielle Rodgers Rodgers.MaiLan@pbgc.gov, efile@pbgc.gov
John M. Rogers johnr@rubin-levin.net, jkrichbaum@rubin-levin.net;atty_rogers@bluestylus.com;mralf@rubin-levin.net
Melissa M. Root mroot@jenner.com, wwilliams@jenner.com
David A. Rosenthal darlaw@nlci.com
James E Rossow jim@rubin-levin.net, ATTY_JER@trustesolutions.com;robin@rubin-levin.net;lisa@rubin-levin.net
Rene Sara Roupinian rsr@outtengolden.com,
jxh@outtengolden.com;kdeleon@outtengolden.com;rfisher@outtengolden.com;gl@outtengolden.com;jquinonez@outtengolden.com
Victoria Fay Roytenberg vroytenberg@law.harvard.edu, jjimenez@law.harvard.edu
Steven Eric Runyan ser@kgrlaw.com
Craig Damon Rust craig.rust@doj.ca.gov, Lindsay.Bensen@doj.ca.gov
Karl T Ryan kryan@ryanesq.com, lindsey@ryanesq.com
Joseph Michael Sanders jsanders@atg.state.il.us
Thomas C Scherer tscherer@bgdlegal.com, fwolfe@bgdlegal.com
James R. Schrier jrs@rtslawfirm.com, lrobison@rtslawfirm.com;jlandes@rtslawfirm.com
Ronald James Schutz rschutz@robinskaplan.com
H. Jeffrey Schwartz jschwartz@robinskaplan.com
Courtney Michelle Scott cscott1@dor.in.gov
Joseph E Shickich jshickich@foxrothschild.com, vmagda@foxrothschild.com
Randall R Shouse rshouse@shouselanglois.com, mlanglois@shouselanglois.com
William E Smith wsmith@k-glaw.com, clipke@k-glaw.com
Lauren C. Sorrell lsorrell@kdlegal.com, ayeskie@kdlegal.com;swaddell@kdlegal.com
Berry Dan Spears berrydspears616@gmail.com
Catherine L. Steege csteage@jenner.com, mhinds@jenner.com;thooker@jenner.com
LaChelle D Stepp lstepp@steppjaffe.com, lastepp@yahoo.com
Jason V Stitt jstitt@kmklaw.com
Sharon Stolte sstolte@sandbergphoenix.com
Jesse Ellsworth Summers esummers@burr.com, sguest@burr.com
Jonathan David Sundheimer jsundheimer@btlaw.com
Nathan L Swehla nswehla@graydon.law
Nancy K. Swift nswift@buchalter.com, cbohnsack@buchalter.com
Andrew W.J. Tarr atarr@robinsonbradshaw.com
Eric Jay Taube eric.taube@wallerlaw.com,
annmarie.jezisek@wallerlaw.com;sherri.savala@wallerlaw.com
Meredith R. Theisen mtheisen@rubin-levin.net, dwright@rubin-levin.net;mcruser@rubin-levin.net
Meredith R. Theisen mtheisen@rubin-levin.net,
atty_mtheisen@bluestylus.com;mralf@rubin-levin.net
Jessica L Titler jt@chimicles.com

Todd Christian Toral todd.toral@dlapiper.com, todd-toral-9280@ecf.pacerpro.com
Ronald M. Tucker rtucker@simon.com, cmartin@simon.com, bankruptcy@simon.com
Christopher Turner christopher.turner@lw.com, DClitserve@lw.com
U.S. Trustee ustpregion10.in.ecf@usdoj.gov
Michael Ungar MUngar@mwe.com
Lauren Valkenaar lauren.valkenaar@nortonrosefulbright.com
Sally E Veghte sveghte@klehr.com, acollazo@klehr.com
Rachel Claire Verbeke rverbeke@stroblpc.com
Aimee Vidaurri aimee.vidaurri@nortonrosefulbright.com
Amy L VonDielingen avondielingen@woodmclaw.com
Amy E Vulpio vulpioa@whiteandwilliams.com
Carolyn Graff Wade Carolyn.G.Wade@doj.state.or.us
Louis Hanner Watson louis@watsonnorris.com
Jeffrey R. Waxman jwaxman@morrisjames.com,
jdawson@morrisjames.com;wweller@morrisjames.com
Christine M.H. Wellons christine.wellons@maryland.gov
Philip A. Whistler philip.whistler@icemiller.com, marti.westerfield@icemiller.com
Bradley Winston bwinston@winstonlaw.com, lwheaton@winstonlaw.com
Brandon Michael Wise bwise@prwlegal.com
Cathleen Dianne Wyatt cwyatt@fbtlaw.com, tacton@fbtlaw.com
Joseph Yar jyar@nmag.gov, eheltman@nmag.gov;lgandomenico@nmag.gov
James T Young james@rubin-levin.net, lking@rubin-
levin.net;atty_young@bluestylus.com;mralf@rubin-levin.net
James E. Zoccola jzoccola@lewis-kappes.com

I further certify that on December 18, 2018, pursuant to Section IV.C.3(c) of the Case Management Procedures, a copy of the foregoing *Proposed Agenda of Matters Scheduled for Omnibus Hearing on December 19, 2018 at 1:30 p.m.* was emailed to the following:

Arlington ISD/Richardson ISD: Eboney Cobb at ecobb@pbfc.com
CEC Red Run, LLC: Alan M. Grochal at agrochal@tydingslaw.com
SWRE Deal V Building, LLC: Paul Weiser at pweiser@buchalter.com
Tarrant County/Dallas County: Elizabeth Weller at dallas.bankruptcy@publicans.com
Northwest Natural Gas Company: Ashlee Minty at Ashlee.Minty@nwnatural.com
Solar Drive Business, LLC: Chris W. Halling at challing@hallingmeza.com
Market-Turk Company: Jordan A. Lavinsky at jlavinsky@hansonbridgett.com
Taxing Authority for Harris County, Texas: John P. Dillman at houston_bankruptcy@lgbs.com
Texas Comptroller of Public Accounts: Rachel Obaldo at rachel.obaldo@oag.texas.gov
Clear Creek Independent School District: Carl O. Sandin at csandin@pbfc.com
Synchrony Bank: Recovery Management Systems Corporation at claims@recoverycorp.com
Bexar County: Don Stecker at sanantonio.bankruptcy@publicans.com
SWRE Deal V Building, LLC: Nancy K. Swift at nswift@buchalter.com
TN Dept. of Revenue: Michael Willey at michael.willey@ag.tn.gov
Florida Department of Education: Benman D. Szeto at benman.szeto@fldoe.org
Last Second Media, Inc.: T. Todd Eglund at tegland@beldenblaine.com
Hung Duong: Kevin Schwin at kevin@schwinlaw.com
Travis County: Kay D. Brock at kay.brock@traviscountytexas.gov

Able Building Maintenance: Scott D. Fink at bronationalecf@weltman.com
Marathon Ventures, LLC: Daniel M. Karger at kargerlaw@gmail.com
Oklahoma County Treasurer: Tammy Jones at tammy.jones@oklahomacounty.org
JM Partners LLC: John Marshall at jmarshall@jmpartnersllc.com

/s/ Meredith R. Theisen

Meredith R. Theisen

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